UNITED STATES DISTRICT COURT EASTERN DISTRICT OF MISSOURI SOUTHEASTERN DIVISION

MICHAEL R. SMYTHE)
Plaintiff,)
VS.	No
RAYCOM MEDIA, INC.	
Defendant.)
)

NOTICE OF REMOVAL

Defendant Raycom Media, Inc. ("Raycom"), pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, hereby provides notice of removal of this action from the Circuit Court of Cape Girardeau County, Missouri to the United States District Court for the Eastern District of Missouri, Southeastern Division, and states the following.

- 1. Plaintiff Michael R. Smythe filed this lawsuit in Cape Girardeau County on December 13, 2012. That action was assigned case number 12CG-CC00327.
- 2. The Summons and Petition directed to Raycom were served on January 3, 2013. This Notice of Removal is filed within thirty days of service upon Raycom and, therefore, is timely in accordance with 28 U.S.C. § 1446(b).
- 3. This Court has subject matter jurisdiction over this action by way of diversity of citizenship jurisdiction under 28 U.S.C. § 1332.
- 4. Diversity of citizenship exists because the plaintiff is a citizen of the State of Missouri whereas the defendant is a citizen of the States of Delaware and Alabama. *See* Declaration of Ellenann B. Yelverton, attached as Exhibit 1; *Hertz Corp. v. Friend*, 130 S.Ct. 1181, 1192 (2010) (a corporation's principal place of business is where its high level officers direct, control, and coordinate its activities, *i.e.*, its nerve center, which is "usually its main

headquarters"); *Wierman v. Casey's General Stores*, 638 F.3d 984, 1004 (8th Cir. 2011) (a corporation's presence in a state does not destroy diversity jurisdiction).

- 5. Plaintiff does not allege an amount in controversy in his complaint. In a suit for declaratory judgment, the amount in controversy is the value of the right at issue. *Midwest Public Auction v. Motorsports of Bowling Green, Inc.*, No. 1:12CV73, 2012 WL 5413902, at *3 (E.D. Mo. Nov. 6, 2012). Here, the complaint alleges that plaintiff has "ownership rights in 29,178 shares of common stock" of Raycom. *See* Complaint, at ¶ 15. Plaintiff seeks an order declaring that "the Plaintiff is the owner of those number of shares of common stock." *Id.* at ¶ 16(B). As of the date of this filing, the current value of the rights at issue in this case exceeds \$75,000. *See* Exhibit 1. Accordingly, the amount in controversy requirement for diversity jurisdiction is satisfied. *See Johnson v. Texas Roadhouse Holdings, LLC*, No. 4:10CV36, 2010 WL 4177655, at *3 (E.D. Mo. Oct. 20, 2010).
- 6. This action is not an action described in 28 U.S.C. § 1445, which delineates certain civil actions that are nonremovable under 28 U.S.C. § 1441.
- 7. Pursuant to 28 U.S.C. § 1441(a), Raycom has removed this civil action to the district and division within which is located the state court where the civil action is pending.
- 8. Promptly after the filing of this Notice of Removal, Raycom will provide written notice of same to plaintiffs' counsel, and will file a true and correct copy of this Notice of Removal with the Clerk of the Circuit Court of Cape Girardeau County, Missouri.
- 9. Pursuant to Local Rule 2.03, a complete copy of the state court file, which consists solely of the Summons and Petition, and related service documents is attached hereto as Exhibit 2.

WHEREFORE, defendant Raycom Media, Inc., respectfully removes the above-entitled action from the Circuit Court of Cape Girardeau County, Missouri, to this Court for further proceedings according to law.

Respectfully submitted,

By: /s/ William Ray Price, Jr.

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on January 22nd, 2013, a true and accurate copy of the foregoing was served via first class mail, postage prepaid, upon:

Mark S. Johnson Johnson & Schneider, L.L.C. 212 North Main Street Cape Girardeau, MO 63701 Counsel for Plaintiffs

/s/ William Ray Price, Jr.____